

Decision 06-06-054 June 29, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

UTILITY CONSUMERS' ACTION NETWORK,

Complainant,

v.

CINGULAR WIRELESS,

Defendant.

Case 05-07-022
(Filed July 22, 2005)

ORDER EXTENDING STATUTORY DEADLINE

Summary

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. In this proceeding, the 12-month deadline for resolving this matter is July 22, 2006. The proceeding cannot be resolved by that date due to successful settlement negotiations between the parties.

Background

Complainant, Utility Consumers' Action Network (UCAN) filed this complaint alleging that defendants were violating California law and Commission regulations in regarding required authorization for placing charges on telephone bills. Cingular Wireless moved to dismiss the complaint due to federal preemption of telecommunication law and on other grounds. The

Commission granted, in part, Cingular's motion on February 16, 2006, but also reiterated that all billing telephone companies must adhere comply with California law and place on authorized charges on subscribers' bills. (See Utility Consumers' Action Network v. Cingular Wireless, D.06-02-012, mimeo. at pages 1-2.)

At the prehearing conference on March 9, 2006, the parties requested that the procedural schedule include mediation. Administrative Law Judge (ALJ) Weissman convened mediation on May 17, 2006, and reported to the assigned ALJ that the parties had reached an agreement in principle on May 19, 2006.

The parties are reducing the settlement terms to writing and expect to file the agreement, with a motion seeking Commission approval, very soon. The time necessary to draft a decision addressing the settlement agreement motion and circulating the draft decision for the required 30-day comment, may exceed the statutory deadline of July 22, 2006.

Need for Extension

The parties require additional time to finalize and file the settlement agreement, and for the Commission to consider and rule on it. Consequently, the proceeding cannot be completed by July 22, 2006, as required by the statute. Therefore, the Commission must extend the statutory deadline. A three-month extension is reasonable to finalize and rule on the settlement agreement.

The parties shall file and serve the settlement agreement and motion no later than July 28, 2006, unless otherwise scheduled by the assigned ALJ. The extension of time beyond that date is to ensure that the Commission has an adequate period to consider the settlement agreement.

Waiver of Comment Period

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable Pub. Util. Code § 1701.2(d) statutory deadline for public review and comment is being waived.

Findings of Fact

1. This proceeding was initiated on July 22, 2005.
2. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before July 22, 2006, unless this date is extended.
3. The current schedule allows insufficient time to resolve this proceeding before the 12-month statutory deadline runs.
4. This proceeding cannot be completed within the 12-month period due to reopening of the record. Under all the circumstances, a three-month extension is reasonable.
5. No party opposes the extension of the 12-month statutory deadline in this proceeding.

Conclusion of Law

The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended, effective immediately, for an additional three months to October 23, 2006.¹

¹ October 22, 2006 falls on a Sunday so the extension shall be effective until the following day.

IT IS ORDERED that:

1. The parties shall file and serve the settlement agreement and motion no later than July 28, 2006, unless otherwise scheduled by the assigned Administrative Law Judge.
2. The 12-month statutory deadline in this proceeding, July 22, 2006, is extended for an additional three months to October 23, 2006.

This order is effective today.

Dated June 29, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners